

ORIGINAL

**PAUL REYNOLDS
CONSULTANT**

May 3, 1992

415 North College Street

RECEIVED
Greenville, AL 36037
205/362-8048

Ms. Donna Searcy, Secretary
FEDERAL COMMUNICATIONS COMMISSION
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

MAY - 4 1992

Federal Communications Commission
Office of the Secretary

RE: Counterproposal and Comments, MM Docket 92-44

Dear Ms. Searcy:

Enclosed please find the original and four copies of a Counterproposal and Comments that Thomas William Hickman, III, Newton Broadcasting Company, Inc., Faulkner/Phillips Media, Inc. and Lou Ward wish to file in the above captioned Docket. Please have someone in your office route this to;

Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Thank you for your assistance in getting this document filed.

Sincerely,



Paul Reynolds, consultant

No. of Copies rec'd 0+4
List A B C D E

BROADCAST CONSULTING AND CONSTRUCTION

ORIGINAL

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
(Hattiesburg, Petal, Newton,)
Waynesboro & Clara, Mississippi,)
and Bay Minette, Alabama))

MM Docket 92-44
RM 7914

RECEIVED

MAY - 4 1992

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

*Federal Communications Commission
Office of the Secretary*

COUNTERPROPOSAL AND COMMENTS

GENERAL

Thomas William Hickman, III (Hickman), licensee of WMFM(FM), Petal, Mississippi, Newton Broadcasting Company, Inc. (NBCI), licensee of WMYQ(FM), Newton, Mississippi, Faulkner/Phillips Media (Faulkner), licensee of WMMV(FM), Bay Minette, Alabama, and Lou Ward, individually, (Ward) hereby submit a counterproposal in the above captioned Docket. Hickman, NBCI, Faulkner and party (hereinafter referred to as "The Group") request that the Commission give full consideration to this counterproposal which provides for a new first local service to a Mississippi community while also allowing for the upgrade of three existing stations, and possibly an additional service to Hattiesburg.

BACKGROUND

In the instant Docket the Commission has issued a Notice of Proposed Rule Making (NPRM) (DA92-258) which, at the request of Community Broadcasting Company, Inc. (CBCI), proposes the allocation of channel 269C3 to Hattiesburg as that community's fourth broadcast service. The Group Counterproposal is mutually exclusive with the CBCI NPRM since it requests the use of channel 269A at Waynesboro. Waynesboro and Hattiesburg are located only 75 KM apart while 142 KM is required for class A to class C3 co-channel stations. However, there is a way for CBCI to provide a new service to Hattiesburg, if it is interested. The method is discussed later.

Previously Hickman and NBCI have offered petitions to the Commission that proposed to upgrade the facilities of WMFM and WMYQ. In MM Docket 90-566 Hickman and NBCI were the original petitioners and sought channel 292C2 at Petal and channel 250A at Newton. However, a counterproposal sought channel 250C3 at Decatur, Mississippi, as a first local service. This eliminated the use of channel 250A at Newton and therefore also prevented the upgrade of WMFM on channel 292C2.

In MM Docket 91-303 Hickman and NBCI offered a counterproposal that, among other things, requested the allocation of channel 269A (at a new transmitter site) for use of WABO(FM), Waynesboro, Mississippi. This would in turn allow the substitution of channel 288A, or channel

288C2, to Newton for use by WMYQ. Once WMYQ vacated channel 292A, channel 292C2 could be allocated to Petal for use by WMFM. However, unbeknown to Hickman and NBCI, the Commission was considering the allocation of channel 269C3 to Hattiesburg as that community's fourth service. This proposed rule making (PRM) was contingent on the deletion of channel 269A at Collins and the substitution of channel 296A for use by WNKZ. The PRM was not in the data base at the time of the Notice of Proposed Rule Making (NPRM) in MM Docket 91-303. No counterproposals have been placed on Public Notice in this Docket, therefore it is highly possible that the Hickman and NBCI counterproposal will not be considered since the Commission was considering the allocation of channel 269C3 at Hattiesburg in the present Docket (MM Docket 92-44). Since there is a high level of uncertainty as to the acceptance the Hickman and NBCI counterproposal in MM Docket 91-303, it is of necessity that The Group file this Counterproposal.

Faulkner was also a petitioner in MM Docket 91-303 seeking to upgrade WMMV(FM), Bay Minette, Alabama, from a class A to class C3, on its present channel of 288. Faulkner was mutually exclusive with the upgrade of WIJK(FM), Evergreen, Alabama, seeking to upgrade from channel 227C2 to channel 227C1. Faulkner had proposed the substitution of channel 227A for channel 288A at Waynesboro in order to eliminate the short space between itself as a class C3 and WABO. This use of channel 227A at Waynesboro was mutually

exclusive with the use of channel 227C1 at Evergreen. The present counterproposal eliminates that conflict.

THE GROUP COUNTERPROPOSAL SUMMARIZED

The Group Counterproposal can be summarized as follows:

CITY	PRESENT	REQUESTED	THE GROUP COUNTERPROPOSAL
Waynesboro	288A	-----	269A (new site
Bay Minette	288A	----	288C3
Newton	292A	----	288C2
Petal	292A	----	292C2
Hattiesburg	221A, 279C, 283C1	221A, 269C3 279C, 283C	221A, 226A*, 279C, 283C
Clara	----	----	287A

* Can be allocated if CBCI will accept a class A in lieu of a class C3.

NATURE OF THE COUNTERPROPOSAL

The Group Counterproposal centers around the deletion of channel 288A and the substitution of channel 269A at Waynesboro. In order for this channel to be substituted to Waynesboro for use by WABO it requires a relocation of the transmitting facility. An agreement has been completed between The Group and Martin Broadcasting Company (Martin), licensee of WABO, that provides for the relocation of the transmitting facility to a site that is fully spaced to all co-channel and adjacent channels. A copy of the certification that an agreement has been reached is included in the Counterproposal as Attachment A. The actual contract

is a private document, but can be submitted if requested by the Commission.

After channel 288A is deleted at Waynesboro, it can be used to upgrade WMMV, Bay Minette from a class A to a class C3, on its present channel (with a slight transmitter relocation).

Channel 288 can also be used by WMYQ, Newton as a class C2, with a site restriction. This is a non-adjacent channel upgrade, however, it will only be available if WABO relocates its transmitter facility in order to move to channel 269A. NBCI is a signatory to that agreement.

Clara is a functioning community in Wayne county Mississippi with a school, bank, retail stores, post office, community utility service, community civic club, voluntary fire department, churches and restaurants. However, it does not have a local broadcast service. After channel 288A is deleted at Waynesboro, channel 288C3 at Bay Minette and channel 288C2 at Newton can be site restricted so as to allow the allocation of channel 287A to Clara as that community's first local service. Lou Ward is a member of The Group submitting this counterproposal, and her expression of interest in the allocation of channel 287A at Clara is included as Attachment B. The allocation of channel 287A at Clara requires a site restriction, however it more than adequately provides the required city grade signal to the community. See Engineering Statement concerning allocation of channel 287A at Clara.

Channel 269C3 is mutually exclusive with the allocation of channel 269A at Waynesboro. However, if CBCI would like to provide an additional broadcast service to Hattiesburg channel 226A can be allocated as a 6 KW class A. A copy of Petition for Rule Making being filed by William Y. Sanford (Sanford) (filed simultaneously with this counterproposal) requesting the allocation of channel 226A to Hattiesburg is included as Attachment C. The PRM includes engineering that shows channel 226A can be allocated to Hattiesburg as a class A in keeping with the Commission's minimum distance separation requirements. Additionally, The Group request that channel 226A be considered for Hattiesburg in the event CBCI is willing to accept this alternate channel.

CHANNELS AND COMMUNITIES

CHANNEL 269A AT WAYNESBORO

Presently Martin operates WABO on the licensed channel of 288A. As stated previously, an agreement has been finalized whereby Martin has consented to a transmitting facility re-location to a point that allows the allocation of channel 269A as a substitute channel, and a copy of the certification of said agreement is attached to The Group Counterproposal. Channel 269A is the only available channel for allocation to Waynesboro, therefore it is mutually exclusive with the allocation of channel 269C3 at Hattiesburg. Additionally, future upgrades are possible for

WABO only if channel 269 is substituted for channel 288A at Waynesboro.

CHANNEL 288C3 AT BAY MINETTE

WMMV, Bay Minette also operates on channel 288A. The only station preventing its upgrade to channel 288C3 is WABO. In the present proceeding the allocation coordinates of WMMV are changed from the previous C3 request to avoid short spacing to WUUU(FM), Orange Beach, Florida. However, this move does not prevent the allocation of channel 287A at Clara. The mutually exclusive scenario between WMMV and WIJK in MM Docket 91-303 will be eliminated if the Commission adopts The Group Counterproposal.

CHANNEL 288C2 AT NEWTON

Presently WMYQ operates on channel 292A and is short spaced to WMFM, Petal. The deletion of channel 292A at Newton is necessary for the upgrade of WMFM and the allocation of channel 288C2 is not possible as a class A, C3, or C2 without the deletion of channel 288A at Waynesboro. Although this is not an adjacent or co-channel upgrade, only NBCI, Hickman and Faulkner have an agreement with Martin that permits the allocation of this channel to Newton. With a site restriction, channel 288C2 can be allocated to Newton and provide the necessary spacing requirements for the allocation of channel 287A at Clara.

CHANNEL 292C2 AT PETAL

WMFM presently operates on channel 292A. Channel 292A in Pascagoula and Picayune, both Mississippi, was deleted as each station effectuate upgrades. The only station of concern to the upgrade of WMFM on its present channel is WMYQ, Newton. The deletion of channel 292A at Newton allows WMFM to operate as a class C2 at the same reference coordinates as those presently in the Commission data base for MM Docket 90-566. Comparisons of channel 292C2 at Petal with those of Channel 269C3 at Hattiesburg are made later.

CHANNEL 287A AT CLARA

Clara, Mississippi, (Zip Code 39324) is listed in the 1990 Rand McNally Road Atlas with a population of 400 persons. Clara contains all the indicia required by the Commission for its establishment as a community deserving a channel allotment for a local FM service. The community has a Post Office with a full time postmaster, a location of the First State Bank, four stores bearing the name of Clara, the Clara Elementary School, utility service is provided by the Clara Water Association, the Clara Volunteer Fire Department, Clara Homemakers (civic) Club, Clara Restaurant and five churches in the immediate Clara area. They are; First Baptist Church of Clara, Clara United Methodist Church, Clara First Assembly of God, Clara Church of God, and the Big Creek Baptist Church. There are also automobile garages in the immediate Clara area.

Clara is not incorporated, however prior Commission rulings have stated that incorporation is not a requirement for allocation. In MM Docket MM Docket 90-214, LaTaurus Productions, Inc. (LaTaurus) petitioned the Commission for the allotment of channel 254A to Statenville, Georgia. This allocation was in conflict with the upgrade of channel 290C3 at Lakeland, Georgia. Lakeland Broadcasters, Inc. (Lakeland) argued that the area known as Statenville lacked the indicia needed for community status since it was unincorporated and had no functioning city government. Lakeland stated that the Commission relied upon the existence of municipal services, schools, libraries, churches, shopping centers, and banks designed to serve primarily the specified community. Lakeland cited Coker, Alabama 43 RR 2d 190 (1970). Lakeland also cited Naples, Florida, 41 RR 2d 1549 (1977), stating that a community must have identifiable boundaries to assure that principle community coverage requirements are met. However, in the Final Report and Order (R&O) (DA 91-1241), the Commission clarified its policy concerning the indicia necessary for an allocation. It stated that;

...if a community is not incorporated or listed in the census reports, the proponents of an allotment must show the place to be a geographically identifiable population grouping or show objective indications of the existence of a common perception that a locality's populous constitutes a distinct "geographical population grouping". The proponent need not show that the borders of the locality are precisely ascertainable nor does the Commission require a municipality to provide every public service on its own in order to merit community status. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987, recon. denied, 2

FCC Rcd 7562 (1987); and Semora, North Carolina, 5 FCC Rcd 1934 (1990).

The Commission also stated in this R&O that;
"The Commission does not require a Municipality to provide every public service on its own in order to merit community status [note omitted]. Similarly the absence of a newspaper or a bank is not fatal to community status.

The end result was that the Commission found Statenville to be a community deserving the allotment of an FM channel although it had no distinct community boundaries or the existence of a bank. The proceedings in this Docket are presently under reconsideration concerning the allotment of a different channel, but not concerning the status of Statenville as a community. It should be noted that Statenville is not a census designated place but is quoted in the Rand McNally Road Atlas as having a population of 650 persons.

Therefore, using the Commission's own precedence set in the Statenville, Georgia proceedings it is obvious that Clara is a community deserving an allocation. Additionally, in a previous proceeding the Commission allocated an FM channel to Bogue Chitto, Mississippi, which according to Rand McNally has a population of 500 persons. Bogue Chitto is not incorporated.

Finally, in MM Docket 90-437 the Commission allowed the permittee of WJAM Marion, Alabama to change city of license to Orrville, Alabama with a population of 349 persons.

Commission precedence dictates that Clara meets all of the indicia set by the Commission in the establishment of a community deserving an FM channel allocation. As stated

previously, a detailed frequency search was performed by The Group's consultant using the Clara area as reference. It was determined that there are no FM channels that will presently meet the separations criteria for allocation at Clara. It is only when channel 288A is deleted at Waynesboro , channel 288C2 is allocated with a site restriction at Newton and channel 288C3 is located on the far South side of the location window at Bay Minette, that a location window exists for the allocation of channel 287A at Clara.

COMPARISON OF THE CBCI PETITION AND THE GROUP COUNTERPROPOSAL

If the Commission adopts the CBCI petition as presently proposed it will prohibit the use of channel 269A at Waynesboro. As a result Channel 288 cannot be used for substitution at Newton, and Channel 288C3 cannot be allocated to WMMV, Bay Minette, and Clara will be denied a first local service. The Commission allocates the various frequencies to communities based on allotment priorities.

They are:

- 1) first full-time aural service;
- 2) second full-time aural service;
- 3) first local service;
- 4) other public interest matters.

[co-equal weight is accorded to priorities 2 and 3].

Therefore, the Commission must give preference to The Group Counterproposal since the allocation of channel 287A at Clara is to be viewed under criteria number (3) while the allocation of Channel 269C3 at Hattiesburg is offering a

fourth local service and must be viewed under criteria (4). If The Group counterproposal were compared to the CBCI petition strictly on the merits of criteria four (without the consideration of channel 287A at Clara), it still must prevail since the allocation of channel 269C3 at Hattiesburg would serve only the immediate Hattiesburg area. The Group counterproposal will offer a new 60 dBu service to Laurel and much of South Central Mississippi through the allocation of channel 292C2 at Petal; a new 60 dBu service to Meridian and east central Mississippi through the allocation of channel 288C2 at Newton; and a new 60 dBu local service to the residents of Baldwin County, Alabama through the allocation of channel 288C3 at Bay Minette.

If the CBCI petition and The Group counterproposal is compared strictly to the gain in the Laurel/Hattiesburg area, The Group counterproposal must again prevail since the allocation of channel 269C3 under criteria four would provide 60 dBu service to the immediate Hattiesburg area while the upgrade of WMFM provides 60 dBu service to all of the Laurel/Hattiesburg/Columbia area.

EXPRESSIONS OF INTEREST

Thomas William Hickman, III, licensee of WMFM(FM), does hereby state he is interested in the allocation of channel 292C2 at Petal, Mississippi, and if granted he will promptly file an application for a construction permit to construct and daily operate the new facility.

Newton Broadcasting Company, Inc., licensee of WMYQ(FM), does hereby state that it is interested in the allocation of channel 288C2 at Newton, Mississippi, and if granted it will promptly file an application for a construction permit to construct and daily operate the new facility.

Faulkner/Phillips Media, Inc., licensee of WMMV(FM), does hereby state that it is interested in the allocation of channel 288C3 at Bay Minette, Alabama, and if granted will promptly file an application for a construction permit to construct and daily operate the new facility.

Lou Ward, petitioner for channel 287A at Clara, Mississippi, does hereby state she is interested in the allocation of this channel to the community, and if allocated, she will timely file an application for construction permit for authority to own and daily operate said station.

CONCLUSION

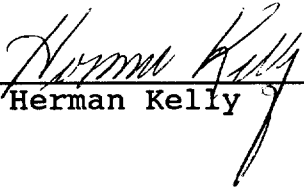
The Group counterproposal is mutually exclusive with the CBCI petition seeking the allocation of channel 269C3 at Hattiesburg as that communities fourth local service. Actually Hattiesburg presently has additional city grade services originating from the present facilities of WMFM, Petal, a class C2 from Taylorsville, Mississippi and WNSL, Laurel. Therefore, although Hattiesburg has three stations licensed to the community, in actuality there are presently six FM city grade services. The Group counterproposal allows for the upgrade of three facilities and the creation of one new local service at a community which is presently unserved. The Group counterproposal offers a method by which CBCI can offer an additional service to Hattiesburg if it is willing to use channel 226A instead of 269C3. Based on the present criteria used by the Commission in determining allotment priorities in conflict, The Group counterproposal must prevail under priorities three and four.

Respectfully Submitted,

THOMAS WILLIAM HICKMAN, III (WMFM, Petal, MS)

By: 
Thomas William Hickman, III

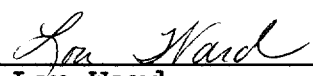
Herman Kelly, President
NEWTON BROADCASTING COMPANY, INC.

By: 
Herman Kelly

James H. Faulkner, Chairman
FAULKNER/PHILLIPS MEDIA. INC.

By: 
James H. Faulkner

Lou Ward, Petitioner
CHANNEL 287A, CLARA, MS

By: 
Lou Ward

ADDRESSES

Thomas William Hickman, III
WMFM(FM) Radio Station
P.O. Box 16928
Hattiesburg, MS 39402

Herman Kelly, President
NEWTON BROADCASTING COMPANY, INC.
P.O. Box 827
Lucedale, MS 39452

James H. Faulkner, Chairman
FAULKNER/PHILLIPS MEDIA, INC.
P.O. Box 339
Bay Minette, AL 36507

Lou Ward, Petitioner
147 Walters Road
Petal, MS 39465

Paul Reynolds, Consultant
415 North College Street
Greenville, Alabama 36037

ATTACHMENT A

CERTIFICATION OF AN AGREEMENT

This document hereby certifies that an agreement has been completed which provides for a predetermined compensation to Martin Broadcasting Company (Martin), licensee of Radio Station WABO(FM), Waynesboro, Mississippi, for all expenses related to the relocation of its transmitting facility, necessitated by the proposed deletion of channel 288A and substitution of channel 269A at Waynesboro. The relocation of the WABO transmitting facility must relocate if channel 269A is allocated since the present site creates a "short-space" situating to existing stations.

The Agreement is between Nancy Martin, DBA Martin Broadcasting Company, and the following petitioners offering a counterproposal in MM Docket 92-44; Thomas William Hickman III, (Hickman), licensee of WMFM(FM), Petal, Mississippi, Newton Broadcasting Company, Inc. (NBCI), licensee of WMYQ(FM), Newton, Mississippi, and Faulkner/Phillips Media, Inc. (Faulkner), licensee of WMMV(FM), Bay Minette, Alabama.

Martin has consented to this relocation of the transmitting facility of WABO under the agreement reached between the aforementioned parties on May 1, 1992. This document is only verification that an agreement has been reached resulting in

Martin consenting to said move according to the scenario being presented as a counterproposal in MM Docket 92-44. The agreement itself is a private document, but can be made public if called for by the Commission.

SIGNED:

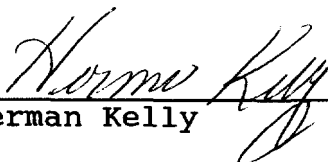
Nancy Martin, DBA
MARTIN BROADCASTING COMPANY (WABO)

By: 
Nancy Martin, Owner

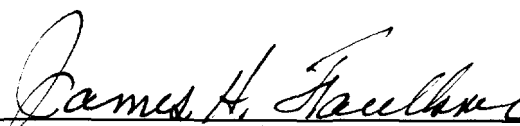
Thomas William Hickman, III (WMFM)

By: 
Thomas William Hickman, III

Herman Kelly, President
NEWTON BROADCASTING COMPANY, INC.

By: 
Herman Kelly

James H. Faulkner, Chairman
FAULKNER/PHILLIPS MEDIA, INC.

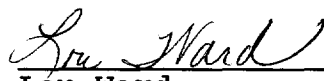
By: 
James H. Faulkner

ATTACHMENT B

EXPRESSION OF INTEREST

I, Lou Ward do hereby state that I am interested in the allocation of channel 287A at Clara, Mississippi, and if the channel is allocated I will timely file an application with the Commission for permission to construct and daily operate said station. I request that the Commission accept this expression of interest in conjunction with the counterproposal presently being submitted in MM Docket 92-44. The counterproposal referred to here is submitted by Thomas William Hickman, III, Newton Broadcasting Company, Inc. and Faulkner/Phillips Media, Inc. I am a party to that counterproposal group.

Respectfully submitted,
Lou Ward, Petitioner



Lou Ward

ATTACHMENT C

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket _____
Table of Allotments,)
FM Broadcast Stations,) RM _____
(Hattiesburg, Mississippi)

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

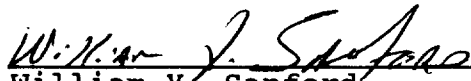
PETITION FOR RULE MAKING

William Y. Sanford (Sanford), a Mississippi broadcast professional, hereby petitions the Commission to allocate channel 226A to Hattiesburg as that community's fourth local service (or fifth depending on the outcome of MM Docket 92-44). Sanford states he is interested in the allocation of this channel to Hattiesburg, and if it is allotted he will timely file an application with the Commission to construct, own and daily operate the new FM facility.

Sanford has attached a tabulation of separations chart that demonstrates channel 226A can be allocated to Hattiesburg in keeping with the Commission's minimum distance separation requirements. A larger "location window" will be possible with the voluntary withdrawal of channel 227A at Waynesboro in another Docket.

Sanford is aware that this allocation could also be proposed in MM Docket 92-44. If it is he will work with all parties involved to provide Hattiesburg with a new allotment while, if possible, giving the other petitioners their request.

Respectfully Submitted,

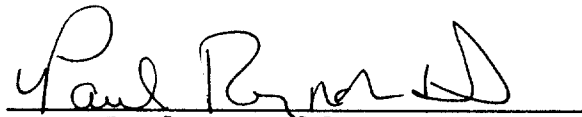


William Y. Sanford
PETITIONER FOR CHANNEL 226A AT HATTIESBURG, MS
211 Smith Street
Petal, MS 39465

CERTIFICATE OF SERVICE

I, Paul Reynolds, Consultant to William Y. Sanford, the petitioner for channel 226A at Hattiesburg, Mississippi, do hereby certify that I have this 4th day of May, 1992, caused to be mailed, first class, US mail, postage prepaid, a copy of the foregoing "Petition for Rule Making" to the following:

John Neely, Esq.
MILLER AND MILLER
P.O. Box 33003
Washington, D.C. 20033
(Counsel to Community Broadcasting Company, Inc.)


Paul Reynolds

ENGINEERING STUDY

for a

Petition for Rule Making

WILLIAM Y. SANFORD, INDIVIDUALLY

ALLOCATION STUDY

[DEPICTING CH 226A CAN BE ALLOCATED TO HATTIESBURG]

31 18 58 N.	Class A					Search	Date
89 19 19 W.	Current rules spacings					05-06-92	
			Channel 226 - 93.1 MHz				
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin
WHER	279C	Hattiesburg	MS	37.2	29.35	29.0	0.35 *
AD227	227A	Waynesboro	MS	56.7	73.43	72.0	1.43 *
Of no concern, can be removed to assist in possible upgrade							
WQUEFM	227C	New Orleans	LA	203.5	168.83	165.0	3.83 *
>ALOPEN	225A	Varnado	LA	233.0	76.19	72.0	4.19 *
>WBOX.A	225A	Varnado	LA	233.0	76.19	72.0	4.19 *
AD227	227A	Magee	MS	324.6	81.35	72.0	9.35 *
WBLXFM	225C	Mobile	AL	115.5	177.33	165.0	12.33
WQID	229C	Biloxi	MS	147.8	108.83	95.0	13.83
WQSTFM	223C	Forest	MS	355.2	116.52	95.0	21.52
>WIZKFM	228A	Bay Springs	MS	1.6	72.04	31.0	41.04
WIZKFM	228A	Bay Springs	MS	1.5	72.19	31.0	41.19
DE228	228A	Bay Springs	MS	1.5	72.19	31.0	41.19
>WBOX	224A	Varnado	LA	233.0	76.19	31.0	45.19

ENGINEERING STATEMENT

**In Support of a
Counterproposal and Comments
MM Docket 92-44
RM-7914**

The instant engineering statement is submitted in support of a Counterproposal and Comments being made jointly by Thomas William Hickman, III (Hickman), licensee of WMFM(FM), Petal, Mississippi, Newton Broadcasting Company, Inc. (NBCI), licensee of WMYQ(FM), Newton, Mississippi, Faulkner/Phillips Media, Inc. (Faulkner), licensee of WMMV(FM), Bay Minette, Alabama, and Lou Ward, individually, petitioner for channel 287A at Clara, Mississippi. In the preceding section these petitioners were jointly referred to as "The Group".

The Group's counterproposal is mutually with the Petition for Rule Making submitted by Community Broadcasting Company, Inc. (CBCI) since the separations are insufficient to allow the allocation of channel 269A as a substitute for channel 288A at Waynesboro and channel 269C3 at Hattiesburg. The actual spacing between these communities is 56.55 KM while 142 Km is required for class C3 to class A co-channel operation. Therefore, the Commission must consider the CBCI Proposed Rule Making (PRM) and The Group Counterporposal on a mutual exclusive basis, unless CBCI is willing to accept a class A allocation at Hattiesburg.

The key in The Group Counterproposal is the substitution of channel 269A for channel 288A at Waynesboro for use by WABO. If channel 269A is to be substituted for channel 288A, the transmitter site of WABO will, of necessity, have to be changed. Martin Broadcasting Company (Martin) has consented to a move to a predetermined site, and an agreement between all of the effected parties has been signed. Channel 288A is presently available for 6 KW operation at Waynesboro, likewise so is channel 269A. It is also highly possible that channel 269 at Waynesboro could be upgraded to a class C3 or C2 in the future.

In searching for an equivalent class C3 channel for Hattiesburg, it was discovered that presently no such channels exist. However, a class A channel (226A) was discovered. This channel could possibly be upgraded in the future to a class C3. William Y. Sanford, an individual in the Hattiesburg area who was initially intending to file an expression of interest in the allocation of channel 269C3, is filing a PRM requesting the allocation of channel 226A at Hattiesburg (concurrently with the filing of this counterproposal). If CBCI accepts this substitute channel the known conflict in this Docket is eliminated.

THE COUNTERPROPOSAL EXPLAINED

Presently both WMFM and WMYQ operate on channel 292A and are short spaced even for 6 KW operation. In order for WMFM to upgrade to any higher class, WMYQ must be reassigned